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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|-----------------|-------------|------------------------|----------------------|------------------|
| 09/688,066      | 10/13/2000  | Dr. Biancamaria Prozzo | TP/2-22108/A/PFE 287 | 1274             |

7590 04/07/2003  
Ciba-Specialty Chemicals Corporation  
Patent Department  
540 White Plains Road  
PO Box 2005  
Tarrytown, NY 10591-9005

EXAMINER

KUMAR, PREETI

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1751

DATE MAILED: 04/07/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/688,066

Applicant(s)

PROZZO ET AL.

Examiner

Preeti Kumar

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 19 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): none.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-9 and 11.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed March 19, 2003 have been fully considered but are not persuasive.
2. Applicant's urge that Stringer et al. do not teach components B and C. As stated in the previous office action the suggestion of ethoxylated alcohol and suggestion of alkyl phenol alkoxylates in a fabric treatment composition is sufficient to one of ordinary skill in the art as a suggestion to combine these surfactants in a fabric treatment composition. See col.5, lin.24- col.6, ln.63. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
3. Also, regarding the argument that Stringer et al. do not teach components A and B and C, the examiner specifically points to col.12, ln.13, where Stringer et al. suggest the utility of sodium cumene sulfonate as a preferred solubilizing ingredient.
4. Also, applicants urge that Gosselink et al. in view of Stringer et al. do not teach or suggest a process for pretreatment of fiber materials providing the special requirements of primary wettability and rewettability. However, Gosselink et al. in view of Stringer et

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al. suggest the same components as recited by the applicants, thus these components would be expected to have the special requirements of primary wettability and rewettability. Furthermore, Gosselink et al. suggest the use of dyes in the fabric treatment composition in col. 33, ln.27. As stated in a previous office action, specifically regarding claims 9 and 11, Gosselink et al. teach a process for treating fiber materials wherein the preferred fiber is polyester, polyester-cotton blends, and other synthetic fabrics; best soil release results are achieved thereon, but other fabric types can also be present. See col.40, ln.5-10. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stringer et al. suggest a fabric treatment composition comprising components A-D and Gosselink et al teach a process of treating polyester, polyester-cotton blends, and other synthetic fabrics with a composition comprising A-B, D and further suggest the use of ethoxylates and mixed ethoxy/propoxy alkoxylates (see col.30, ln. 67) in a fabric treatment composition in general.

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**Conclusion**

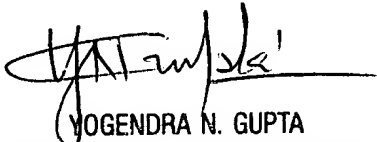
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 703-305-0178. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9309.

Preeti Kumar  
Examiner  
Art Unit 1751

PK  
April 4, 2003

  
YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700